

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HENRY M. HEARNE,

Plaintiff

vs.

MOTION CONTROL INDUSTRIES,
DIVISION OF CARLISLE
CORPORATION, RETIREMENT PLAN
FOR BARGAINING UNIT EMPLOYEES
OF MOTION CONTROL INDUSTRIES,
DIVISION OF CARLISLE
CORPORATION,

Defendants

)
) Docket No. 04-276E
) (Judge Maurice B. Cohill, Jr.)
)
) ELECTRONICALLY FILED PLEADING
)
) JURY TRIAL DEMANDED
)
) JOINT MOTION TO MODIFY CASE
) MANAGEMENT ORDER
)
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JOINT MOTION TO MODIFY CASE MANAGEMENT ORDER

The parties, through their undersigned counsel, respectfully request that the Court enter an Order modifying the current pretrial schedule and Case Management Order in this action, and state in support as follows:

1. The instant action is one of seven lawsuits filed by former employees of the former Ridgway facility of Motion Control Industries, a division of Carlisle Corporation. The plaintiff herein, as well as the plaintiffs in the other six related actions, seek disability benefits under the Retirement Plan for Bargaining Unit Employees of Motion Control Industries ("the Plan").

2. An eighth action which also involves former employees of the Ridgway facility, the same defendants, and requiring interpretation of the Plan is currently pending before Judge McLaughlin at docket no. 04245E. However this action, Donachy, et al. v. Motion Control Industries, et al., involves claims for retirement benefits rather than disability benefits. Cross-motions for summary judgment are pending in the Donachy case.

3. Each of the seven related disability claim cases presents separate and independent factual issues regarding the nature, timing and extent of each plaintiff's alleged disability, which issues require separate factual discovery. However, counsel for the parties have conferred and agree that the seven related cases for disability benefits appear to have a number of common legal issues, which, depending upon their resolution, may render moot much, if not all, of the discovery regarding the nature, timing and extent of each plaintiff's alleged disability.

4. On June 23, 2005, the Court adopted a pretrial schedule and Case Management Order, which set discovery and other deadlines.

5. The parties jointly request an extension of the foregoing schedule and deadlines in order to allow them to complete their structured discovery as outlined above and, if appropriate, present dispositive motions regarding questions of law.

6. This is the parties' first request for extension in this case.

7. Counsel for the parties have worked cooperatively in this action and believe that the requested modification of the pretrial schedule will promote the efficient resolution of this and the related cases.

8. The parties request that the Court adopt the following modified discovery and pretrial schedule:

- a. All discovery in Phase I shall be commenced in time to be completed by February 24, 2006.
- b. The parties shall file motions for summary judgment on or before March 10, 2005. Response to such motions shall be accompanied by briefs and filed on or before March 30, 2006. Any reply briefs shall be due five (5) days after the receipt of the Response and shall not exceed three (3) pages in length.
- c. Phase II of the proposed Case Management Order shall only be effective at the conclusion of Phase I and only if the plaintiffs prevail on the threshold legal issues identified in paragraph 6(d) of their Rule 26(f) Report. The Court shall schedule a status conference at the convenience of the Court and the parties.

WHEREFORE, the parties respectfully request that the Court enter their proposed Order modifying the Case Management Order for this action.

Respectfully submitted,

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